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10 Attorneys for Plaintiff
11 CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 CALIFORNIA SPORTFISHING
15 PROTECTION ALLIANCE, a non-profit
corporation,

16 Plaintiff,

17 vs.

18 TOMRA PACIFIC, INC., a corporation.

19 Defendant.

20 Case No. C10-00701-BZ

21 **NOTICE OF SETTLEMENT;
STIPULATION AND [PROPOSED]
ORDER STAYING PROCEEDINGS AND
VACATING EXISTING DEADLINES**

22 Judge: Hon. Bernard Zimmerman

23 Conference: December 13, 2010

24 Time: 4:00 pm

Courtroom: G

25 **PLEASE TAKE NOTICE** that the parties have reached a settlement resolving all claims in
this action. The settlement is contingent upon the expiration of the federal agencies' 45-day review
period required by the Federal Water Pollution Control Act, 33 U.S.C. § 1365(c)(2).¹

26 _____
27 ¹ Title 33 of the United States Code, Section 1365(c)(2) provides that “[n]o consent judgment shall be
28 entered in an action in which the United States is not a party prior to 45-days following the receipt of a copy
of the proposed consent judgment by the Attorney General and the Administrator.”

1 **PLEASE TAKE FURTHER NOTICE** that, in accordance with federal law, no judgment
 2 disposing of this action may be entered prior to 45 days following the receipt of the proposed
 3 settlement agreement by the United States Department of Justice and the national and Region IX
 4 offices of the United States Environmental Protection Agency. *See* 40 C.F.R. § 135.5 (requiring the
 5 parties to provide notice to the court of the 45-day agency review period under 33 U.S.C. § 1365(c)).
 6 Such notice will be mailed to the agencies on or about December 13, 2010. The regulatory agencies'
 7 review period will end by approximately February 7, 2011 (allowing forty-five days for agency
 8 review and approximately nine days for mailing time). If any of the reviewing agencies object to the
 9 proposed Consent Decree, the parties would require additional time to meet and confer and attempt
 10 to resolve the agencies' concerns. At the end of the 45-day review period, the parties will file either
 11 the proposed Consent Decree for review and approval by the Court or a notice that the agencies
 12 objected to the proposed Consent Decree.

13 In light of the settlement agreement entered into by the parties and the need to await the
 14 conclusion of the agencies' 45-day review period, Plaintiff California Sportfishing Protection
 15 Alliance ("CSPA") and Defendant Tomra Pacific, Inc. ("Tomra"), through their respective counsel,
 16 stipulate and agree as follows:

17 **WHEREAS**, on February 18, 2010, CSPA filed its complaint in this action;

18 **WHEREAS**, a Status Conference currently is scheduled for Monday, December 13, 2010 at
 19 4 p.m.;

20 **WHEREAS**, Tomra and CSPA have been diligently engaged in settlement discussions since
 21 prior to the filing of the complaint;

22 **WHEREAS**, the parties successfully completed and executed a proposed Consent Decree on
 23 December 10, 2010;

24 **WHEREAS**, on December 13, 2010, CSPA will submit the proposed Consent Decree via
 25 certified mail, return receipt requested, to the U.S. EPA and the U.S. Department of Justice and must
 26 then await the completion of the 45-day review period set forth at 40 C.F.R. § 135.5 and 33 U.S.C. §
 27 1365(c)(2);

WHEREAS, in the interests of efficiency and judicial economy, the parties wish to preserve costs incurred in this matter pending the agencies review of the executed settlement agreement;

WHEREAS, in light of the parties' entering into the settlement agreement and the need to allow the federal agencies 45 days to review the proposed Consent Decree, the parties further request that the Court immediately stay all proceedings in this action until February 25, 2011, by which date the parties expect to have filed the proposed Consent Decree with the Court. The parties further request that all deadlines and dates currently scheduled by the Court be vacated.

THEREFORE, IT IS HEREBY STIPULATED by and between CSPA and Tomra, through their respective counsel of record, that the Court stay all proceedings in this action until February 25, 2011 and, with the exception of this Stipulation, vacate all deadlines and dates currently scheduled by the Court.

Dated: December 13, 2010

Respectfully submitted,

LOZEAU DRURY LLP

By: /s/ Michael R. Lozeau

Michael R. Lozeau
Attorney for Plaintiff
CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE

**WILSON ELSER MOSKOWITZ EDELMAN &
DICKER LLP**

By: /s/ Ralph W. Robinson
(as authorized on December 13, 2010)
Ralph W. Robinson
Attorney for Defendant
TOMRA PACIFIC, INC.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 13 Dec '10



Judge Bernard Zimmerman
United States Magistrate Judge